

Remarks

The Examiner's Office action mailed November 10, 2003, which rejected pending claims 1-2, has been reviewed, and certain amendments have been made to the application. Applicant(s) respectfully submit that the application is in condition for allowance.

Since the Granted Petition for Revival was mailed from the Office on April 7, 2004, and the period for reply to the Office action was restarted as of the mailing date of the Granted Petition, and this Supplemental Response is filed within three months of April 7, 2004, no extension fees are required.

The Examiner rejected claims 1-2 under the obviousness-type double patenting based on claim 11 of U.S. Patent No. 6,343,290 (the "'290 Patent").

The present application is a continuation-in-part of the '290 Patent. Both the present application and the '290 Patent are commonly owned.

The claims of the present application and the '290 Patent are patentably distinct. The systems of the present application require sectorized performance elements. In a cell network, for example, these systems enable a user to see performance data, at a glance, for each individual sector in a cell site. In the cell systems of the '290 Patent, this was not possible, and either the cell data for the entire cell site as a whole was depicted or only one sector for the cell site could be depicted. Under the present systems, customer support, engineers, and others are able to see each individual sector of the cell site and are better able to determine what issues exist for a network. Similarly, in other systems for other types of networks, multiple sectors enable a user to see different aspects of each sector of a network element. The systems of the '290 Patent and the present application are different. This is an advance over the '290 Patent. The differences are not obvious to one of skill in the art.

Further, the Examiner has given no reasoned statement why this advance must be obvious to one skilled in the art. The Examiner cannot simply state that one item is "considered to be" a subset of the other. The Examiner has no evidence of that and has presented no evidence of that. The present application and the '290 Patent teach different structures.

The Examiner must show proof that the claimed limitation is obvious. The Examiner must provide detailed explanations of how the prior art renders a claim obvious, including "reasoned findings" identifying structures and reasons for identifying and/or combining structures. *In re Lee*, 61 USPQ2d 1430 (Fed. Cir. 2002). The Examiner must provide

objective evidence and proper authority for the rejection. *In re Lee* at 1435. The Examiner may not base a rejection on conclusory statements. There must be a search and analysis, including evidence relevant to the finding of obviousness. *In re Lee* at 1433. The Examiner can satisfy the burden only by showing some objective evidence. *In re Lee* at 1434. Conclusory statements from the Examiner cannot be used in place of actual evidence. *In re Lee* at 1434. This factual inquiry is material to patentability, and can not be resolved on subjective belief and unknown authority. *In re Lee* at 1434.

Withdrawal of the double patenting rejection respectfully is requested.

The Examiner rejected claims 1-2 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,285,494, issued to Sprecher et al. ("Sprecher"). The Examiner found that all limitations of Applicants claims were found in Sprecher at column 3, line 50 to column 4, line 32 and Figures 4-4C.

The Examiner found that the network elements limitation of claim 1 was found at column 3, lines 50-56, and the sector performance elements limitation of claim 1 was found at column 4, lines 13-24 and Figures 4B-4C.

The discussion in Sprecher at column 3, line 50 and column 4, lines 13-24 and in relation to Figures 4-4C is for the same data and the same display. At column 3 lines 52-56, Sprecher states "[t]he tactical surveillance module 126 of the NSS interface 125 enables the user to evaluate alarm data from network elements affected by a natural or manmade disaster such as, but not limited to, cell site outages and unusual shifts in traffic patterns." Thus, the interface allows a user to evaluate alarm data from the network elements. But, the specific display elements are not yet discussed.

At column 4, lines 13-24, Sprecher states "[r]eference is now made to FIG. 4 which depicts in the preferred embodiment form, a tripartite screen illustrating the output of the tactical surveillance module 126. An overview graphical monitor 156 is depicted in the bottom left-hand corner of the screen (FIG. 4B) while a detailed graphical monitor 158 (FIG. 4C) is depicted in the bottom right-hand corner of the screen. A legend 157, here depicted in the left-hand bottom of the screen (FIG. 4B), color codes the graphical monitors 156 and 158. The colors indicate the criticality of an alarm condition ranging from a normal condition to a critical alarm." Here Sprecher discloses the specific way in which the alarm data can be evaluated.

This is the same alarm data specified at column 3, lines 52-56. As pointed out by Sprecher, the Legend, not anything displayed for a network element, indicates the criticality of the alarm.

Therefore, Sprecher cannot possibly teach or disclose both of the limitations of Applicants' claim 1 for the network elements and the sector performance elements. At a minimum, Sprecher would only be able to disclose one of the limitations. Of course, Applicants contend it does not even disclose one of them. For this reason, Applicants request the withdrawal of the rejection of claim 1.

Further, claim 1 requires *network elements having network characteristics and generated for display in relation to the geographic elements*. Sprecher does not disclose or teach this limitation. Sprecher does not teach or disclose network characteristics generated for network elements.

Further, claim 1 requires *sector performance elements having sector performance characteristics, each generated for display proximal to a corresponding network element*. The sector performance elements are in addition to the network elements. Sprecher does not disclose or teach this limitation. Sprecher does not disclose or teach performance elements. Sprecher does not disclose or teach sector performance elements. Nor does Sprecher disclose or teach performance characteristics (or sector performance characteristics) generated for display proximal to a corresponding network element. Nothing in Sprecher indicates performance for different sectors of the network elements.

At column 3, lines 505-6, Sprecher does not state that anything is displayed with the "network elements" to depict the cell cite outages and traffic patterns. Sprecher states that the tactical surveillance module enables the user to evaluate alarm data from the network elements affected by a natural or man made disaster such as cell site outages. Enabling a user to evaluate the alarm data from the network elements does not equate to generating a network characteristic for the network element. A spreadsheet document would enable a user to evaluate alarm data. But, that is not the same as generating a network characteristic for a network element for display.

Further, none of Figures 4-4C show a network element with a network characteristic generated for display. Figure 4B shows empty circles. The empty circles are not color-filled or shaded and do not have any other characteristic. Figure 4C shows empty circles and empty diamonds. The empty circles and empty diamonds are not color-filled or shaded and

do not have any other characteristic. Figures 4-4A don't show any circles or diamonds or any other items.

The figures and the description do not state clearly what is represented by the circles and diamonds. The circles have city names, such as Los Angeles and Pasadena. The diamonds also have city names, such as Westwood Village and Beverly Hills. Other names designate Hancock Park, CBS, etc. It is not clear that the circles and diamonds represent cell sites or cities, parks, or other locations.

The legend on Figure 4B does not show a network element or a sector performance element. The legend on Figure 4B does not show a network characteristic for a network element, and it does not show a sector performance characteristic for a performance element. None of Figures 4-4C show these limitations.

The legend on Figure 4B has square boxes, each with a different shading. A label is next to each box, including critical, major, minor, warning, info, and normal.

Next to the legend are three boxes labeled LA3, LA4, and LA5. Neither the Figures 4-4C nor the associated text states what is meant by LA3, LA4, or LA5. Nothing in the Figures or the text corresponds to LA3, LA4, or LA5.

Each of these three boxes has a different shading, and none correspond directly with any boxes in the legend. The three boxes are to the right of the bottom portion of the legend, and both are well below and to the left of the geographic map area. Neither the legend nor the three boxes have a pointer or other director to any of the circles of Figure 4B (or anything on Figure 4C). No areas of the geographic map of Figure 4B are shaded. None of the circles in Figure 4B are shaded inside, outside, or near the circle. There is no shading, color, or other characteristic anywhere on the Figures other than the legend and the boxes labeled LA3, LA4, and LA5.

At column 4, lines 19-24, Sprecher states that a "legend 157, here depicted in the left-hand bottom of the screen (FIG. 4B), color codes the graphical monitors 156 and 158." Applicants' claims do not require color coding the graphical monitor. Applicants' claims require network characteristics for network elements and sector performance characteristics for sector performance elements. Applicants' system of claim 1 shows multiple individual sectors, multiple individual performance elements (at least one for each sector), multiple individual

network elements, and multiple individual network characteristics (at least one for each network element). This simply is not disclosed or taught in the text or the figures of Sprecher.

It should be noted that Figure 8 and Figure 13 also do not show the above limitations. These figures and their associated text make no reference to any characteristics whatsoever, or any alarms, performance, or network events.

Sprecher does not disclose or teach the system of Applicants' claim 1. Therefore, Applicants submit that claim 1 is allowable. Withdrawal of the rejection respectfully is requested.

Because claim 2 depends from claim 1 and includes all of the limitations of its base claim, which is believed to be patentable, it also is believed to be allowable. Withdrawal of the rejection of claim 2 respectfully is requested.

Because claim 1 is believed patentable, it is not necessary to discuss all patentable limitations of claim 2 depending there from. However, the lack of a discussion of patentable limitations of the dependent claim should not be construed to mean that there are not patentable limitations in the dependent claim.

Claims 3-49 are believed patentable for the same reasons set forth above.

Regarding all the claims, when examining claims for patentability, claims are interpreted as broadly as reasonably possible but consistent with the specification. *In re Thrift*, 63 USPQ2d 2002, at 2007 (Fed. Cir. 2002). It should be noted that "network element" and "performance element" are discussed thoroughly in Applicants' specification and should be interpreted consistently with the disclosure. Similarly, "sectored performance element" and "sectored performance characteristic" are discussed in Applicants' specification. Sprecher does not meet the above-referenced limitations. See, for example, page 22, line 15-page 23, line 5; page 24, line 19-page 25, line 12; page 26, line 6-page 27, line 15; page 29, line 1-page 30, line 10; page 41, lines 5-18; page 42, line 5-page 43, line 15; page 65, line 17-page 66, line 10; page 73, line 3-page 76, line 22; Figures 5A-5C, 40, 42, and 45A-45B.

If the Examiner continues to believe that any portion or portions of the claims can be rejected over Sprecher, Applicants specifically request that the Examiner respond to all arguments made in the Remarks section of this Response above, including a response for each claim with a detailed identification of which specific section of the cited Sprecher selections is used to reject the claim limitation and a detailed explanation of how that section anticipates the

claim limitation. Such a detailed explanation is needed by Applicants so that Applicants can adequately respond to a continued rejection. Applicants thank the Examiner in advance for cooperation in this respect.

The references cited by the Examiner and made of record have been reviewed by Applicant(s). Applicant(s) have no further remarks with regard to the cited references.

Based on the foregoing, it is submitted that the Applicants' invention as defined by the claims is patentable over the references of record. Issuance of a Notice of Allowance is solicited.

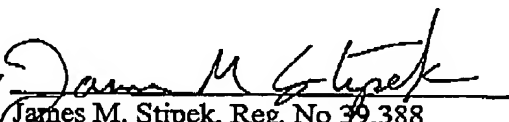
Applicants' attorney welcomes the opportunity to discuss the case with the Examiner in the event that there are any questions or comments regarding the response or the application.

This is intended to be a complete response to the Examiner's Office action mailed on November 10, 2003, the Granted Petition for Revival mailed on April 7, 2004, and in further response to the Request for Continued Examination filed by Applicants on May 3, 2004.

Respectfully Submitted,

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